

12/85

1983-1026-019-0

STATE OF CONNECTICUT
BOARD OF EXAMINERS IN PODIATRY

In the Matter of:
Gary Fleischman, D.P.M.

MEMORANDUM OF DECISION

The Department of Health Services presented the Connecticut Board of Examiners in Podiatry with a Statement of Charges, dated April 9, 1986, brought against Gary Fleischman, D.P.M., the Respondent. The Statement of Charges alleged violations of §§ 20-45 and 20-59 of the Connecticut General Statutes.

A Notice of Hearing, dated April 20, 1985, was issued to the Respondent by the Connecticut Board of Examiners in Podiatry. The Department's Statement of Charges was attached to the Notice. The hearing was held on May 8, 1985 at 30 Trinity Street, Hartford, Connecticut.

The Respondent was represented by counsel and had full opportunity to present evidence and cross-examine witnesses.

All members of the Board involved in this decision attest that they have read and reviewed all transcripts of the

proceedings and all evidence submitted. The decision is thus based entirely on the record presented and on the specialized professional knowledge of the Board members in evaluating such evidence.

FINDINGS OF FACT

- (1) Respondent, Gary Fleischman, D.P.M, was at all pertinent times licensed to practice podiatry by the State of Connecticut Department of Health Services. Hearing Transcript (H. Tr.) 106.
- (2) Pursuant to § 4-192(c) of the Connecticut General Statutes, Respondent was provided full opportunity prior to institution of agency action to show compliance with all the terms for retention of his license. H. Tr. at 10.
- (3) Respondent, by his own admission, performed acupuncture on parts of the body other than the feet. H. Tr. at 75-77, 79.

DISCUSSION AND CONCLUSION

First Count

The Respondent is charged with holding himself out as being licensed to practice acupuncture in violation of § 20-59(3) of the Connecticut General Statutes.

The Board finds, after reviewing all the evidence, that the facts as alleged have not been sufficiently proven; thus, there is no violation of § 20-59(3) under the first count.

Second Count

The Respondent is charged with performing acupuncture on parts of the body other than feet which constitutes illegal, incompetent, or negligent conduct under § 20-59(4) of the Connecticut General Statutes.

The Board finds, after reviewing all the evidence, that the facts as alleged have been proven. Findings of fact (3). The Respondent, therefore, has violated § 20-59(4).

Third Count

The Respondent is charged with performing acupuncture, conduct which is beyond the rights and privileges accorded to podiatrists in the State of Connecticut, and by doing so, is in violation § 20-59(9) of the Connecticut General Statutes.

The Board finds after reviewing all the evidence, that the facts as alleged have not been sufficiently proven, thus there is no violation of § 20-59(9) under the third count.

Fourth Count

The Respondent is charged with performing acupuncture without a license in violation of § 20-59 of the Connecticut General Statutes.

The Board finds, after reviewing all the evidence, that the facts as alleged have not been sufficiently proven, thus there is no violation of § 20-59 under the fourth count.

Fifth Count

The Respondent is charged with using acupuncture in his practice of podiatry which constitutes fraudulent or deceptive

conduct in violation of § 20-45 of the Connecticut General Statutes.

The Board finds, after reviewing all the evidence that the facts as alleged have not been sufficiently proven, thus there is no violation of § 20-45 under the fifth count.

ORDER

Pursuant to its authority under § 19a-17 of the Connecticut General Statutes, the Board of Examiners in Podiatry hereby orders the following:

- 1) that a letter of reprimand be written and placed in Respondent's file at the department of Health Services;
- 2) that such letter state that Respondent was guilty of unprofessional conduct and that he violated § 20-59(4) of the Connecticut General Statutes; and

- 3) that such letter will be considered if Respondent is brought before the Board in any further disciplinary hearings.

CONNECTICUT BOARD OF EXAMINERS
IN PODIATRY

December 11, 1985
Date

By: Irving Friedman, D.P.M.
Chairman